

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

RICARDO PEREZ-HERRERA,

v.

CRIMINAL ACTION FILE  
NO.: 4:13-CR-16-01-HLM-  
WEJ

CIVIL ACTION FILE NO.:  
4:14-CV-076-HLM-WEJ

UNITED STATES OF AMERICA.

ORDER

This case is before the Court on Petitioner's Motion to Vacate, Set Aside, or Correct Sentence Under 28 U.S.C. § 2255 ("§ 2255 Motion") [27], on the Final Report and Recommendation of United States Magistrate Judge Walter E. Johnson [35], and on Petitioner's Motion to Withdraw § 2255 Motion [42].

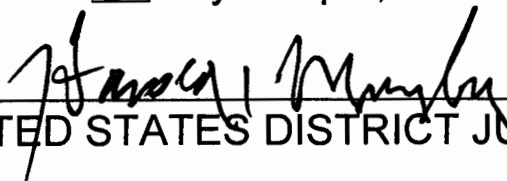
On April 7, 2014, Petitioner filed his § 2255 Motion. (Docket Entry No. 27.) On February 27, 2015, Judge Johnson issued his Final Report and Recommendation, in which he recommended that the Court deny Petitioner's § 2255 Motion. (Docket Entry No. 35.)

On March 20, 2015, the Court granted a Joint Motion to Reduce Sentence, and reduced Petitioner's sentence to 120 months of imprisonment. (Order of Mar. 20, 2015 (Docket Entry No. 40).) On April 3, 2015, Petitioner filed his Motion to Withdraw § 2255 Motion. (Docket Entry No. 42.) The Court finds that it is appropriate to allow Petitioner to withdraw his § 2255 Motion, and will deny the § 2255 Motion without prejudice.

ACCORDINGLY, the Court **ADOPTS** the Final Report and Recommendation of United States Magistrate Judge Walter E. Johnson [35]. The Court, however, **GRANTS** Petitioner's Motion to Withdraw § 2255 Motion [42], and **DENIES AS MOOT AND WITHOUT PREJUDICE** Petitioner's § 2255 Motion [27]. The Court **DIRECTS** the Clerk to **CLOSE** the civil case associated with Petitioner's § 2255 Motion: 4:14-CV-076-HLM-WEJ. The Court **DECLINES** to issue a certificate of appealability relating to the

denial without prejudice of Petitioner's § 2255 Motion.

IT IS SO ORDERED, this the 3<sup>rd</sup> day of April, 2015.

  
UNITED STATES DISTRICT JUDGE